IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

MONKEYMEDIA, INC., Plaintiff, vs. SAMSUNG ELECTRONICS CO., LTD and SAMSUNG ELECTRONICS AMERICA, INC. Defendants.	CIVIL ACTION NO.: 2:17-CV-460 **JURY TRIAL DEMANDED**

COMPLAINT FOR PATENT INFRINGEMENT

MONKEYmedia, Inc. brings this suit against Defendants Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc., (collectively "Samsung" or "Defendants") and alleges as follows:

I. PARTIES

1. Plaintiff MONKEYmedia, Inc. ("MONKEYmedia") is a Texas corporation with its principal place of business in Austin, Texas.

2. Defendant Samsung Electronics Co., Ltd. ("Samsung Ltd.") is a corporation organized and existing under the laws of Korea with a principal place of business at Samsung Electronics Bldg., 1320-10, Seocho-2-dong, Seocho-gu, Seoul 137857, Republic of Korea. Samsung Ltd. is one of the world's largest electronics companies and designs, manufactures and provides to the United States and world markets a wide variety of products and services, including consumer electronics, including Blu-ray and DVD disc players, televisions, set-top boxes, mobile phones, tablets, laptops and other personal computers.

3. Defendant Samsung Electronics America, Inc. ("SEA") is a corporation organized and existing under the laws of New York with a principal place of business at 85 Challenger Road, Ridgefield Park, New Jersey 07660 and offices at 1301 East Lookout Drive, Richardson, Texas 75082. SEA may be served through its registered agent, CT Corporation System, located at 1999 Bryan Street, Suite 900, Dallas, Texas 75201. Upon information and belief, SEA is a wholly-owned subsidiary of Samsung Ltd. that is comprised of Samsung's Consumer Business division and the Enterprise Business division, and it oversees the distribution of Samsung's consumer electronics products in the U.S. Upon information and belief, SEA recently merged with Samsung Telecommunications America, Inc., ("STA") which operated Samsung's North American business with respect to mobile phones and telephony equipment. *See Lexington Luminance LLC v. Samsung Electronics Co*., No. 2-16-cv-00169-JRG, Dkt. No. 8 ¶¶ 2(a)-(b) (E.D. Tex.). After that merger, a court in this district held: "STA serves as a sales division for SEC mobile devices in the United States. It imports and sells SEC mobile devices, tablets, and network infrastructure." *Ziilabs Inc., Ltd. v. Samsung Elecs. Co.*, No. 2:14-CV-203-JRG-RSP, 2015 WL 5278744, at *1 (E.D. Tex. Sept. 9, 2015) (emphasis added). As a result, SEA is STA's "successor-in-interest for the purpose of the alleged liability, discovery, and damages relating to this lawsuit." See Lexington, No. 2-16-cv-00169-JRG, Dkt. No. 8 ¶ 2(c).

II. JURISDICTION AND VENUE

4. Plaintiff MONKEYmedia asserts causes of action under 35 U. S. C. § 271 for infringement of United States Patents owned by MONKEYmedia. This Court has original and exclusive subject matter jurisdiction over these claims under 28 U. S. C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Samsung Ltd. and SEA because they have substantial, systematic and continuous contacts with this judicial district. Samsung has

offices and facilities in this judicial district, including facilities in Richardson, Texas. Samsung also has committed and continues to commit acts of infringement in violation of 35 U.S.C. § 271 and places infringing products in the stream of commerce with the knowledge, understanding and expectation that such products will be sold in the state of Texas and in this judicial district. Samsung's presence in this judicial district and expectation that the infringing products will be sold and used in this judicial district is further evidenced by the presence in this judicial district of Samsung authorized service centers within this district. Additionally, events giving rise to this suit occurred in this district, including acts of infringement by Defendants.

6. Venue is proper in this judicial district in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b) because, among other reasons, Samsung has offices and facilities in this judicial district, including offices in Richardson, Texas, and is subject to personal jurisdiction in this judicial district. Further, a substantial part of the events or omissions giving rise to claims alleged herein occurred in this judicial district. Samsung has committed acts of infringement in this judicial district by, among other things, marketing, selling and offering for sale infringing products in this judicial district and through the business operations of Samsung Ltd. and SEA. In addition, Samsung Electronics and SEA have acknowledged in the past that the Eastern District of Texas is a proper venue for a patent infringement lawsuit against them. *See Ziilabs*, 2015 WL 5278744, at *3.

III. MONKEYmedia's ASSERTED PATENTS

7. Eric Gould Bear, the founder of MONKEYmedia, is a prolific inventor and is named as the first inventor in over 100 patents and patent applications. These include the issued patents and pending patent applications in the "Seamless Expansion" patent family. The inventions in the Seamless Expansion patent family were conceived by Bear and his co-inventor

at least as early as 1994 and concern the display of optional content in the context of audio-visual content streams. MONKEYmedia is the owner by assignment of all right, title and interest in and to the Seamless Expansion patent family. The patents at issue in this lawsuit are summarized below.

A. The ’158 Patent

8. U. S. Patent No. 6,393,158 (’158) owned by MONKEYmedia is in the Seamless Expansion patent family. The relevant claims in the ’158 Patent after reexamination are generally directed towards methods for playing segments of stored content, such as audiovisual content on DVDs and Blu-ray discs, by playing a “main” video segment and determining whether a content expansion is desired. If a content expansion is desired, then an expansion is played rather than the next (“continuing”) segment of the main video. After the viewer finishes with the expansion, the main video resumes. If a content expansion is not desired, the continuing segment of the main video is played.

9. The methods claimed in the ’158 Patent have special significance for devices having a DVD or Blu-ray player to play movies and other content from DVDs and Blu-ray discs that allow a viewer to use the device to access and watch “expansion content” such as “behind the scenes” featurettes in the midst of playing a movie and then resume watching the movie after finishing with the expansion content.

10. The claims in the ’158 Patent after reexamination issued on February 21, 2013 and have a priority date of April 23, 1999.

B. The ’379 Patent

11. U. S. Patent No. 9,185,379 (’379) owned by MONKEYmedia is in the Seamless Expansion patent family and issued from a continuation application based originally on the ’158

Patent. The relevant claims in the ’379 Patent are generally directed towards computer readable storage media that store(s) instructions and are capable of causing a device to play a “main” audio and/or video stream and determine whether an optional content expansion, such as a brand engagement opportunity in an advertisement in an “App” is desired. If the optional content expansion is selected, then the main content stream “pauses” and the content expansion is played. After the viewer finishes with the optional expansion, the main content stream resumes.

12. The computer readable storage media claimed in the ’379 Patent that are relevant in this lawsuit have special significance for devices, such as smart TVs, set-top boxes, smartphones, tablets, laptops and other personal computers that are capable of playing Apps with streaming audio and/or visual content, such as Pandora Radio, Hulu and Amazon Video.

13. The claims in the ’379 Patent issued on November 10, 2015 and have a priority date of April 23, 1999.

C. The ’226 Patent

14. U. S. Patent No. 9,247,226 (’226) owned by MONKEYmedia is in the Seamless Expansion patent family and issued from a continuation application based originally on the ’158 Patent. The relevant claims in the ’226 Patent are generally directed towards computer readable media and methods for playing stored content, such as audiovisual content on DVDs and Blu-ray discs, and streaming content in “Apps” that have interstitial advertisements or other optional seamless expansion content. Generally speaking, the claims teach playing a “main” audio and/or video stream and determining whether an optional content expansion, such as “behind-the-scenes” footage on a Disc or a brand engagement opportunity in an advertisement in an App is desired. If the optional content expansion is selected, then the main content stream “pauses” and

the content expansion is played. After the viewer finishes with the optional expansion, the main content stream resumes.

15. The methods and computer readable media claimed in the ’226 Patent that are relevant in this lawsuit have special significance for devices that have a DVD or Blu-ray player to play movies and similar content from DVDs and Blu-ray discs that allow a viewer to use the device to access and watch “expansion content” such as “behind the scenes” featurettes during a movie and then resume watching the movie after finishing with the expansion content. The claims also have special significance for devices, such as smart TVs, set-top boxes, smartphones, tablets, laptops and other personal computers that are capable of playing Apps with streaming audio and/or visual content, such as Pandora Radio, Hulu and Amazon Video.

16. The claims in the ’226 Patent issued on January 26, 2016 and have a priority date of April 23, 1999.

D. Samsung’s Knowledge of its Infringement

17. Samsung has had actual notice of the ’158, ’379, and ’226 patents and its infringement of those patents long before the filing of this action. Despite having this actual knowledge of the patents at issue, Defendant Samsung continued to distribute the myriad accused products during the term of the patents in suit.

IV. INFRINGEMENT BY SAMSUNG

18. Samsung develops, manufactures and supplies entertainment systems and stand-alone players for playing infringing DVD and Blu-ray discs. In addition to selling past infringing Disc players, Samsung is currently selling several models of players including the UBD-M9500 4K Ultra HD Blu-ray Player, UBD-M8500 4K Ultra HD Blu-ray Player, the BD-J6300 Blu-ray Player, the BD-J7500 Blu-ray Player, and various laptop, all-in-one and desktop computer

models configurable with optical disc drives and software for playing DVD and Blu-ray videos (Collectively "Samsung Disc Players").

19. The ability to access and play multimedia content, including playing infringing Seamless Expansion content, on the Samsung Disc Players is an essential feature and function of these devices.

20. Samsung also develops, manufactures, and supplies mobile smartphones, tablets, laptop computers and other portable battery-powered devices. These devices include without limitation at least the following: Samsung Galaxy Note (Note, Note II, Note 3, Note 4, Note Edge, Note 8.0, Note 10.1, Note Pro 12.2), Samsung Galaxy Mega (Mega, Mega 2), Samsung Galaxy S (S, SII, SIII, S4, S5, S6, S6 Edge, Round, Victory, S7, S8), Samsung Galaxy Tab (Tab, Tab 2, Tab 3, Tab 3 Lite, Tab 4, Tab A, Tab Pro, Tab S, Tab S1, Tab S2, Tab S3), Samsung Galaxy View, Samsung Galaxy Book and other such devices (and versions thereof) having the same or similar functionality with respect to the '226 and/or '379 patents (the "Samsung Mobile Devices"). These Samsung smartphones, laptop computers, and tablets are specifically designed and configured with hardware and software components that allow for the simultaneous storage and playback of music, movies, videos, television shows, and other continuous play media content in conjunction with apps that are pre-loaded or can be downloaded from the Samsung App Store. The ability to access and play continuous play media content, including playing infringing Seamless Expansion content, on the Samsung Mobile Devices is an essential feature and function of these devices.

21. Samsung has also developed, manufactured, and supplied equipment, including set-top and set-back streaming media players that allow for the simultaneous storage and playback of music, movies, videos, television shows, and other continuous play media content.

The media players include the Samsung SMT-H3090HD, Samsung GX-SM530CF, various Samsung Evolution Kits and other streaming media players having the same or similar functionality with respect to the ’226 and/or ’379 patents (“Media Players”).

22. Samsung has also developed, manufactured, and supplied Smart TVs that allow for the simultaneous storage and playback of music, movies, videos, television shows, and other continuous play media content. These Smart TVs include the Samsung MU9000 series, MU8500 series, MU7500series, MU7000 series, MU6500 series, MU6300 series, Q65Q7F series, KU6250 series, KU6290 series, 9-Series KS9000, 8-Series KS8000, JS9000 Series, JS8500 Series, JU7500 series, HU9000 series, H7150 Series, H6400 Series, H6350 Series, F9000 Series, F8000 Series and other Smart TVs having the same or similar functionality with respect to the ’226 and/or ’379 patents (“Smart TVs). The Samsung Smart TVs are specifically designed and configured with hardware and software components that allow for the simultaneous storage and playback of music, movies, videos, television shows, and other continuous play media content in conjunction with apps that are pre-loaded or can be downloaded from the Samsung App Store through Samsung’s “Smart Hub” feature. The ability to access and play continuous play media content, including playing infringing Seamless Expansion content, on the Samsung Smart TVs is an essential feature and function of these devices.

23. Moreover, many of the Samsung Smart TVs have “Smart Interaction” technology that enables the viewer to operate the TV and access content (including, upon information and belief, Seamless Expansion content) without pushing a button, either through hand gestures or voice commands.

V. CAUSES OF ACTION

A. Infringement of the '158 Patent

24. MONKEYmedia reincorporates by reference and realleges paragraphs 1 through 23 above as if fully set forth herein.

25. Samsung has infringed and is currently infringing claims 37, 40 and/or 41 of the '158 Patent, in violation of 35 U.S.C. § 271.

26. Samsung infringes literally and/or under the doctrine of equivalents, by, among other things, making, using, offering for sale, selling, and/or importing within this judicial district and elsewhere in the United States, without license or authority, the Samsung Disc Players falling within the scope of claims 37, 40 and/or 41 of the '158 Patent.

27. Upon information and belief, Samsung has infringed and continues to infringe the '158 Patent in violation of 35 U.S.C. § 271(b) by actively inducing infringement of the '158 Patent, literally and/or under the doctrine of equivalents, with knowledge of the '158 Patent and knowledge that it was inducing the infringement of the '158 Patent, by, among other things, actively and knowingly aiding and abetting, assisting and encouraging others, including without limitation, customers and end users of Samsung Disc Players to directly infringe the '158 Patent with respect to the making, using, offering for sale, selling, and/or importing.

28. Samsung's infringement of the '158 Patent has been and continues to be willful and deliberate. Samsung, with knowledge of the '158 Patent and its infringement, engaged in objectively reckless conduct by selling and continuing to sell infringing products in the face of an objectively high risk that Samsung was infringing MONKEYmedia's valid '158 Patent.

29. As a consequence of Samsung's infringement, MONKEYmedia is entitled to recover damages adequate to compensate it for the infringement complained of herein, but in no event less than a reasonable royalty.

B. Infringement of the '379 Patent

30. MONKEYmedia reincorporates by reference and realleges paragraphs 1 through 23 above as if fully set forth herein.

31. Samsung has infringed and is currently infringing one or more of claims 21-29 of the '379 Patent, in violation of 35 U.S.C. § 271.

32. Samsung infringes literally and/or under the doctrine of equivalents, by, among other things, making, using, offering for sale, selling, and/or importing within this judicial district and elsewhere in the United States, without license or authority, the Samsung Disc Players, Samsung Mobile Devices, Samsung Media Players and Samsung Smart TVs falling within the scope of one or more of claims 21-29 of the '379 Patent.

33. Upon information and belief, Samsung has infringed and continues to infringe the '379 Patent in violation of 35 U.S.C. § 271(b) by actively inducing infringement of the '379 Patent, literally and/or under the doctrine of equivalents, with knowledge of the '379 Patent and knowledge that it was inducing the infringement of the '379 Patent, by, among other things, actively and knowingly aiding and abetting, assisting and encouraging others, including without limitation, customers and end users of Samsung Disc Players, Samsung Mobile Devices , Samsung Media Players and Samsung Smart TVs to directly infringe the '379 Patent with respect to the making, using, offering for sale, selling, and/or importing.

34. Samsung's infringement of the '379 Patent has been and continues to be willful and deliberate. Samsung, with knowledge of the '379 Patent and its infringement, engaged in

objectively reckless conduct by selling and continuing to sell infringing products in the face of an objectively high risk that Samsung was infringing MONKEYmedia's valid '379 Patent.

35. As a consequence of Samsung's infringement, MONKEYmedia is entitled to recover damages adequate to compensate it for the infringement complained of herein, but in no event less than a reasonable royalty.

C. Infringement of the '226 Patent

36. MONKEYmedia reincorporates by reference and realleges paragraphs 1 through 23 above as if fully set forth herein.

37. Samsung has infringed and is currently infringing one or more of claims 1-12 of the '226 Patent, in violation of 35 U.S.C. § 271.

38. Samsung infringes literally and/or under the doctrine of equivalents, by, among other things, making, using, offering for sale, selling, and/or importing within this judicial district and elsewhere in the United States, without license or authority, the Samsung Disc Players, Samsung Mobile Devices, Samsung Media Players and Samsung Smart TVs falling within the scope of one or more of claims 1-12 in the '226 Patent.

39. Upon information and belief, Samsung has infringed and continues to infringe the '379 Patent in violation of 35 U.S.C. § 271(b) by actively inducing infringement of the '226 Patent, literally and/or under the doctrine of equivalents, with knowledge of the '226 Patent and knowledge that it was inducing the infringement of the '226 Patent, by, among other things, actively and knowingly aiding and abetting, assisting and encouraging others, including without limitation, customers and end users of Samsung Disc Players, Samsung Mobile Devices, Samsung Media Players and Samsung Smart TVs to directly infringe the '226 Patent with respect to the making, using, offering for sale, selling, and/or importing.

40. Samsung's infringement of the '226 Patent has been and continues to be willful and deliberate. Samsung, with knowledge of the '226 Patent and its infringement, engaged in objectively reckless conduct by selling and continuing to sell infringing products in the face of an objectively high risk that Samsung was infringing MONKEYmedia's valid '226 Patent.

41. As a consequence of Samsung's infringement, MONKEYmedia is entitled to recover damages adequate to compensate it for the infringement complained of herein, but in no event less than a reasonable royalty.

VI. JURY DEMAND

42. MONKEYmedia demands a trial by jury on all issues.

VII. PRAYER

WHEREFORE, MONKEYmedia respectfully requests the following relief:

(a) That this Court find each of the Defendants has committed acts of patent infringement in violation of the Patent Act, 35 U. S. C. § 271;

(b) That this Court enter judgment that:

(i) MONKEYmedia is the owner of the MONKEYmedia '158, '379 and '226 Patents and all rights of recovery thereunder;

(ii) the claims at issue in the MONKEYmedia '158, '379 and '226 Patents are valid and enforceable;

(c) That this Court award MONKEYmedia damages of no less than a reasonable royalty that have been incurred as a result of each of the Defendants' patent infringement, with pre-judgment interest;

(d) That the infringement by Samsung be adjudged willful and that the damages be increased under 35 U.S.C. § 284 to three times the amount found or measured;

(e) That this Court award MONKEYmedia its costs and disbursements in this action;

(f) That this Court award MONKEYmedia post-judgment interest on all amounts awarded to it, at the maximum rate allowed by law; and

(g) That this Court grant MONKEYmedia all further relief to which it may be entitled.

Respectfully submitted,

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